



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General  
Office of Audit Services

REGION IV  
61 Forsyth Street, S.W., Suite 3T41  
Atlanta, Georgia 30303

OCT - 1 2004

A-04-04-03500

Mr. David M. Harlan, Jr.  
Inspector General  
Florida Department of Financial Services  
Larson Building  
200 East Gaines Street  
Tallahassee, Florida 32399

Dear Mr. Harlan:

Enclosed are two copies of the Department of Health and Human Services (HHS), Office of Inspector General (OIG) final report entitled *Audit of Administrative Fees Charged to the Federal Government for Florida Trust Funds*. The objective of our audit was to determine whether Florida appropriately charged the Federal Government for administrative expenses of selected trust funds. A copy of this report will be forwarded to the action official below for his review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the HHS action official. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, OIG reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act which the Department chooses to exercise (see 45 CFR part 5). As such, within 10 business days after the final report is issued, it will be posted on the Internet at <http://oig.hhs.gov>.

To facilitate identification, please refer to report number A-04-04-03500 in all correspondence.

Sincerely,

Charles J. Curtis  
Regional Inspector General  
for Audit Services, Region IV

Enclosures: As stated

**Direct Reply to HHS Action Official:**

Mr. William Logan  
Director, Mid-Atlantic Office  
Division of Cost Allocation  
U.S. Department of Health and Human Services  
Wilbur Cohen Building, Room 1067  
330 Independence Ave. S.W.  
Washington, D.C. 20201

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**AUDIT OF ADMINISTRATIVE FEES  
CHARGED TO THE FEDERAL  
GOVERNMENT FOR FLORIDA TRUST  
FUNDS**



**OCTOBER 2004  
CIN: A-04-04-03500**

# *Office of Inspector General*

<http://oig.hhs.gov>

---

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

## *Office of Audit Services*

The OIG's Office of Audit Services (OAS) provides all auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations in order to reduce waste, abuse, and mismanagement and to promote economy and efficiency throughout the department.

## *Office of Evaluation and Inspections*

The OIG's Office of Evaluation and Inspections (OEI) conducts short-term management and program evaluations (called inspections) that focus on issues of concern to the department, the Congress, and the public. The findings and recommendations contained in the inspections reports generate rapid, accurate, and up-to-date information on the efficiency, vulnerability, and effectiveness of departmental programs. The OEI also oversees State Medicaid fraud control units, which investigate and prosecute fraud and patient abuse in the Medicaid program.

## *Office of Investigations*

The OIG's Office of Investigations (OI) conducts criminal, civil, and administrative investigations of allegations of wrongdoing in HHS programs or to HHS beneficiaries and of unjust enrichment by providers. The investigative efforts of OI lead to criminal convictions, administrative sanctions, or civil monetary penalties.

## *Office of Counsel to the Inspector General*

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support in OIG's internal operations. The OCIG imposes program exclusions and civil monetary penalties on health care providers and litigates those actions within the department. The OCIG also represents OIG in the global settlement of cases arising under the Civil False Claims Act, develops and monitors corporate integrity agreements, develops model compliance plans, renders advisory opinions on OIG sanctions to the health care community, and issues fraud alerts and other industry guidance.

# *Notices*

---

**THIS REPORT IS AVAILABLE TO THE PUBLIC**  
at <http://oig.hhs.gov>

In accordance with the principles of the Freedom of Information Act (5 U.S.C. 552, as amended by Public Law 104-231), Office of Inspector General, Office of Audit Services reports are made available to members of the public to the extent the information is not subject to exemptions in the act. (See 45 CFR Part 5.)

## **OAS FINDINGS AND OPINIONS**

The designation of financial or management practices as questionable or a recommendation for the disallowance of costs incurred or claimed, as well as other conclusions and recommendations in this report, represent the findings and opinions of the HHS/OIG/OAS. Authorized officials of the HHS divisions will make final determination on these matters.



## EXECUTIVE SUMMARY

### BACKGROUND

Florida (State) trust funds consist of monies that are earmarked for a specific purpose, either by general State law, the State constitution, or a trust agreement. The State operates approximately 450 trust funds. Currently, Florida Statute 215.20 requires State agencies to transfer a 7 percent administrative fee to the State's general revenue fund each quarter based on the income deposited in the trust fund accounts. The statute specifically exempts administrative fee assessments on revenue related to Federal grants. This exemption would preclude assessments directly against Federal dollars provided to State agencies, as well as to interest earned on those monies once they have been placed in a State trust fund.

### OBJECTIVE

The objective of this audit was to determine whether the State appropriately charged the Federal Government for administrative expenses of selected trust funds.

### SUMMARY OF FINDINGS

The State inappropriately charged Federal programs an administrative fee on the interest earnings of two trust funds maintained by the State Department of Juvenile Justice. The State transferred these administrative fees to its General Fund for the purpose of supporting general government operations. Office of Management and Budget (OMB) Circular A-87 prohibits the use of Federal funds for the cost of general government.

The State did not adequately monitor the trust funds to ensure that all trust funds that contained Federal funds were exempt from the administrative fee assessment. As a result, for 2 of the 55 trust funds we reviewed, the State used \$108,850 of Federal funds for the cost of general government.

### RECOMMENDATIONS

We recommend that the State:

- repay the \$108,850 to the State's Department of Juvenile Justice trust funds and
- examine the State trust funds that were not included in this review to determine whether these trust funds were assessed administrative fees on their Federal fund earnings, and ensure that future administrative fees are only assessed on the State funded portion of the trust funds and any related earnings.

## **State Comments**

State officials concurred with our findings and recommendations. State officials said they would: (1) repay the \$108,850 to the State's Department of Juvenile Justice trust funds, and (2) examine the State trust funds that were not included in this review to determine whether those trust funds were assessed administrative fees on their Federal fund earnings. State officials also said they were implementing a new accounting system that should allow the State to more easily identify Federal fund earnings that are exempt from the administrative fee. The complete text of the State's comments is included in the Appendix.

**TABLE OF CONTENTS**

INTRODUCTION ..... 1

BACKGROUND ..... 1

OBJECTIVE, SCOPE, AND METHODOLOGY ..... 1

    Objective ..... 1

    Scope ..... 1

    Methodology ..... 2

FINDINGS AND RECOMMENDATIONS ..... 2

TRUST FUND ADMINISTRATIVE FEES ..... 2

    Trust Fund Administrative Fees Used For General Government ..... 2

    Calculation Of Federal Share Of Unallowable Charges ..... 4

RECOMMENDATIONS ..... 4

STATE COMMENTS AND OIG RESPONSE ..... 4

    State Comments ..... 4

STATE COMMENTS ..... Appendix



## INTRODUCTION

### BACKGROUND

Generally, State trust funds are established to provide a means for demonstrating that the administering agency has used earmarked monies in accordance with any limitations or restrictions placed on those monies. State trust funds consist of monies that are earmarked for a specific purpose, either by State law, the State constitution, or a trust agreement.

One source of revenue for many State trust funds is Federal grants. In the absence of any grant language to the contrary, the provisions of OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments", govern the use of Federal grant funds.

The State operates approximately 450 trust funds. Currently, Florida Statute 215.20 requires State agencies to transfer a 7 percent administrative fee to the State's general revenue fund each quarter based on the income deposited in the trust fund accounts. The first reference to a trust fund administrative fee in State records was in 1941, when the fee was 3 percent.

Florida Statute 215.24 exempts certain types of revenue from the administrative fee assessments. The statute specifically exempts administrative fee assessments on revenue related to Federal grants. This exemption would preclude assessments being made directly against Federal dollars provided to State agencies, as well as to interest earned on those monies once they have been placed in a State trust fund. The statute also includes a broad exemption from assessments for State funds that are used as matching funds in order to obtain Federal grants.

With the approval of the Executive Office of the Governor, the Florida Department of Financial Services establishes the rules and procedures for the transfer of the administrative fee assessments to the State's general fund. The Department of Financial Services is also responsible for determining if a type of revenue matches any of the exemptions listed in the State statutes.

### OBJECTIVE, SCOPE, AND METHODOLOGY

#### Objective

The objective of this audit was to determine whether the State appropriately charged the Federal Government for administrative expenses of selected trust funds.

#### Scope

Our audit covered the operations of the State trust funds from July 1, 2000 through June 30, 2003. Fieldwork was conducted at the Department of Financial Services offices in Tallahassee, Florida.

## **Methodology**

To accomplish the objective, we:

- obtained and reviewed applicable laws, regulations, policies, procedures, and controls to gain an understanding of the State trust funds;
- interviewed officials with the State Department of Financial Services to obtain an understanding of the accounting for the trust funds;
- contacted the State Auditor General’s office and reviewed working papers relating to their reviews of the trust funds;
- selected 55 State trust funds with large balances and expected high rates of Federal participation to review in detail; and
- calculated the Federal share of any unallowable administrative charges to the selected trust funds.

Our audit was conducted in accordance with generally accepted government auditing standards.

## **FINDINGS AND RECOMMENDATIONS**

### **TRUST FUND ADMINISTRATIVE FEES**

The State inappropriately charged Federal programs an administrative fee on the interest earnings of two trust funds maintained by the State Department of Juvenile Justice. The State transferred these administrative fees to its General Fund for the purpose of supporting general government operations. OMB Circular A-87 prohibits the use of Federal funds for the cost of general government.

#### **Trust Fund Administrative Fees Used For General Government**

According to Florida Statute 215.20, the purpose of the trust fund administrative fee assessments was to cover the costs of general government. Florida Statute 215.20 states that the trust fund assessments are intended to cover the “estimated pro rata share of the cost of general government paid from the General Revenue Fund”. Neither the Department of Financial Services nor the Executive Office of the Governor could provide us with a basis, or documentation, to support the “estimated” costs referred to in the State statute.

The authority for the Department of Financial Services to transfer the administrative fee assessments to the State’s general revenue fund is found in Florida Statute 215.20, which states in part:

“(1) A service charge of 7 percent, representing the estimated pro rata share of the cost of general government paid from the General Revenue Fund, shall be deducted from all income of a revenue nature deposited in all trust funds except those enumerated in s. 215.22. Income of a revenue nature shall include all earnings received or credited by such trust funds, including the interest or benefit received from the investment of the principal of such trust funds as may be permitted by law....All such deductions shall be deposited in the General Revenue Fund....”

Furthermore, instructions issued by the Department of Financial Services regarding the service charges contain the following background material:

“In 1988 when general revenue was extremely low due to the slump in the economy, the legislature decided to assess all trust funds except those that were exempt by law. Several trust funds that are exempt are listed by name in 215.22 F.S. Also some agencies are exempt but there are exceptions. If a trust fund was paying a service charge before 1988, then it continues to pay the fee even though the remaining trust funds administered by that agency are exempt.”

We attempted to obtain supporting documentation for expenses associated with administering the trust funds. Although we requested cost support for the charge numerous times, we were never provided any support. One individual responded to our request for support documentation by indicating that the assessment was imposed because the State Legislature needed the money.

For the period of this audit, the State made unallowable transfers from two of the selected State trust funds to the State’s general fund based on fees assessed against interest income of the respective trusts. Interest income included not only income earned on funds contributed from State (or other non-Federal) sources, but also included income on Federal contributions. To the extent Federal funds were deposited into a trust fund, any interest on the Federal portion of trust fund assets should also be proportionately credited with any interest earned.

Of the 55 trust funds that we reviewed from 8 State agencies, we identified 1 agency, the Department of Juvenile Justice, which maintained trust funds into which Federal dollars were deposited and for which interest earned on these funds was not proportionately exempted from the fee assessment. For the remaining trust funds that we reviewed, no administrative fees were assessed on the Federal dollars that were deposited.

OMB Circular A-87 establishes the principles and standards for determining costs for Federal awards carried out through grants, cost-reimbursement contracts, and other agreements with State and local governments. Attachment B, section 23.a, specifically disallows charging Federal grants for the general costs of State government.

In the process of implementing the requirements of Florida Statute 215.20, the State did not adequately monitor the trust funds to ensure that all trust funds that contained Federal funds were exempt from the administrative fee assessment.

The State's monitoring procedures relied on the individual State agency that established the trust to properly identify the source of funds being deposited into the trust. The Department of Financial Services does not have standard follow-up procedures to identify instances in which the State agency failed to accurately classify the source of funds.

Some trust funds were specifically exempted from the assessment of administrative fees within Florida Statute, therefore precluding assessments of Federally funded contributions. In addition, the statute includes language allowing the Executive Office of the Governor to authorize an exemption for other trust funds when imposition of the administrative charge would endanger the State's receipt of Federal matching funds. However, the burden is placed on the sponsoring State agency to request the exemption.

Thus, while Florida Statute 215 contains language that would allow for compliance with OMB Circular A-87, the State had not developed sufficient procedures to ensure compliance with A-87 in its implementation of the statute.

### **Calculation Of Federal Share Of Unallowable Charges**

The State earned interest income on State and Federal funds in the Department of Juvenile Justice's Administrative Trust Fund and the Grants and Donations Trust Fund. For the 3-year period ending June 30, 2003, interest income earned on the Federal portion of the funds totaled \$1,554,993. The State assessed this interest income with a 7 percent administrative fee totaling \$108,850 that the State transferred to its general fund to use for general State operating expenses.

### **RECOMMENDATIONS**

We recommend that the State:

- repay the \$108,850 to the State's Department of Juvenile Justice trust funds
- examine the State trust funds that were not included in this review to determine whether these trust funds were assessed administrative fees on their Federal fund earnings, and ensure that future administrative fees are only assessed on the State funded portion of the trust funds and any related earnings

### **State Comments**

In response to our recommendations, State officials said that they would: (1) repay \$108,850 to the State's Department of Juvenile Justice's trust funds and (2) examine other State trust funds to ensure that administrative fees were not assessed on Federal fund earnings during the audit period. State officials also said they were implementing a new accounting system beginning July 1, 2005 that should allow the State to more easily identify Federal fund earnings that are exempt from the administrative fee. The complete text of the State's comments is included in the Appendix.

# APPENDIX



**TOM GALLAGHER**  
CHIEF FINANCIAL OFFICER  
STATE OF FLORIDA

September 24, 2004

Mr. Charles J. Curtis  
Regional Inspector General  
For Audit Services, Region IV  
US Department of Health and Human Services  
61 Forsyth Street, SW Suite 3T41  
Atlanta, Georgia 30303

Dear Mr. Curtis:

Pursuant to your request of August 30, 2004, regarding audit number A-04-04-03500 of administrative fees charged to the Federal Government for Florida trust funds, our response is as follows:

**Finding**

The State earned interest income on State and Federal funds in the Department of Juvenile Justice's Administrative Trust Fund and the Grant and Donations Trust Funds. For the 3-year period ending June 30, 2003, interest income earned on the Federal portion of the funds totaled \$1,554,993. The State assessed this interest income with a 7 percent administrative fee totaling \$108,850 that the State transferred to its general fund to use for general State operation expenses.

**Recommendation:** That the State repay the \$108,850 to the State's Department of Juvenile Justice trust funds.

**Department of Financial Services Response:** We concur that the State's Department of Juvenile Justice's trust funds identified in the audit should not have been assessed an administrative fee on their Federal fund earnings. The State of Florida will reimburse the State's Department of Juvenile Justice trust funds the \$108,850 identified in the audit. In addition, the State of Florida will review other trust funds maintained by the State's Department of Juvenile Justice to ensure that administrative fees were not assessed on their Federal fund earnings during the period under audit.

DAVID M. HARLAN, JR., CPA, CIG, CLE • INSPECTOR GENERAL  
OFFICE OF THE INSPECTOR GENERAL • DEPARTMENT OF FINANCIAL SERVICES  
200 EAST GAINES STREET • TALLAHASSEE, FLORIDA 32399-0312  
TEL. 850-413-4960 • SC 293-4960 • FAX 850-922-6659 • EMAIL • HARLAND@DFS.STATE.FL.US  
AFFIRMATIVE ACTION • EQUAL OPPORTUNITY EMPLOYER

Mr. Charles J. Curtis  
September 24, 2004  
Page 2

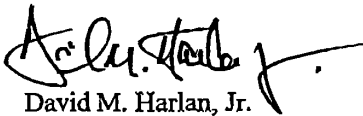
**Department of Juvenile Justice Response:** Upon being informed of the audit's findings, the Department of Juvenile Justice issued an official request for reimbursement of funds to the Department of Financial Services under Secretary Schembri's signature. Our staff is currently working with personnel from the Department of Financial Services to furnish appropriate documentation to adequately reconcile their files. According to those involved in this effort, the reimbursement process and repayment should be finalized within a couple of weeks.

**Recommendation:** That the state examine the State trust funds that were not included in this review to determine whether these trust funds were assessed administrative fees on their Federal fund earnings, and ensure that future administrative fees are only assessed on the State funded portion of the trust funds and any related earnings.

**Department of Financial Services Response:** The Department of Financial Services has begun a review of State of Florida trust funds to ensure that administrative fees were not assessed on Federal fund earnings for the audit period July 1, 2001 through June 30, 2003. In addition, the State of Florida is implementing a new accounting system beginning July 1, 2005. This system should allow the State to more easily identify Federal fund earnings that are exempt from the administrative fee assessment specified in Section 215.20, Florida Statutes.

If further information is needed concerning any of our responses, please contact David Jenkins at 850-413-4962.

Sincerely,



David M. Harlan, Jr.

cc: The Honorable Tom Gallagher  
Paul Mitchell, Chief of Staff

# ACKNOWLEDGMENTS

This report was prepared under the direction of Charles J. Curtis, Regional Inspector General for Audit Services. Other principal Office of Audit Services staff that contributed included:

John T. Drake, Sr., *Audit Manager*

Truman Mayfield, *Senior Auditor*

James D. Duncan, Jr., *Auditor-in-Charge*

Jon Crowder, *Audit Director, Headquarters, Grants and Internal Activities*

Karen Young, *Audit Manager, Headquarters, Grants and Internal Activities*

## Technical Assistance

Elizabeth Zyga, *Administrative Support Specialist*